

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, ex rel,
W.A. DREW EDMONDSON, in his
capacity as ATTORNEY GENERAL
OF THE STATE OF OKLAHOMA,
et al.

Plaintiffs,

V.

TYSON FOODS, INC., et al.,

Defendants.

No. 05-CV-329-GKF-SAJ

REPORTER'S TRANSCRIPT OF PROCEEDINGS

FEBRUARY 19, 2008

PRELIMINARY INJUNCTION HEARING

VOLUME I

BEFORE THE HONORABLE GREGORY K. FRIZZELL, Judge

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UNITED STATES COURT REPORTER

EXHIBIT

61

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CONTENTS

Page No.

OPENING STATEMENTS:

By Mr. Edmondson..... 30

By Mr. Ryan..... 42

WITNESSES CALLED ON BEHALF OF PLAINTIFFS:

CANON MILES TOLBERT:

Direct Examination by Mr. Edmondson..... 65

1 being overapplied and are needed for plant growth.

2 THE COURT: Well, but here they're focusing on E. coli
3 and bacteria, not on phosphorus; correct?

4 MR. RYAN: I'm sorry, Your Honor?

5 THE COURT: In this proceeding are they not focusing
6 on bacteria as opposed to phosphorus?

7 MR. RYAN: Yes, Your Honor. No, that's absolutely
8 right, but we're talking about what the land needs and what's
9 being overapplied.

10 THE COURT: Right, right.

11 MR. RYAN: I think their argument only goes to the
12 phosphorus, to the one element of phosphorus. It does not
13 address the other twelve elements which I say are needed for
14 plant growth and are beneficial to the crops and plants and
15 pastures and forage. And I don't think there's any question
16 but that there has been an overapplication of litter on some or
17 many farms. That's not an issue in our book. I'm certainly
18 not arguing that in terms of phosphorus.

19 Your Honor, these are the defendants, there's 13 of
20 them. They're in seven, if you will, if you disregard
21 affiliated companies, there's seven companies. The plaintiffs
22 want to treat us as if we were one homogenous group. And if
23 they can show that the defendants, plural, apply bacteria
24 somehow to the waterways and that makes all the defendants
25 liable. These defendants are competitors of one another, Your